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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/547,965	09/08/2005	Hanjo Yang	1884.02	6462
29338 7590 04/03/2008 PARK LAW FIRM 3255 WILSHIRE BLVD SUITE 1110 LOS ANGELES, CA 90010			EXAMINER COLQUITT, AARON BRUCE	
			ART UNIT 3735	PAPER NUMBER
			MAIL DATE 04/03/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/547,965

**Applicant(s)**

YANG, HANJO

**Examiner**

AARON B. COLQUITT

**Art Unit**

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No: 3946733 to Han (hereinafter "Han").

Han teaches a cupping and moxibustion device, which includes a moxa pot (32) located on the upper portion (12) for containing moxa (51) therein, a moxibustion part formed just above the treatment opening (56) of the lower treatment portion (58) to communicate with the moxa pot (32), and a cupping part (16) divided from the upper portion and the moxibustion part and located around the moxibustion part (fig. 2), comprising:

a body (10) having a seat (34) formed therein for seating the moxa pot (32) inside the body and a smoke discharge hole (28) formed on a side thereof, the smoke discharge hole being located below the seat and above the moxibustion part to communicate with the moxa pot (col. 3, lines 1-26);

an air pump (18) connected with the air suction hole (22) to supply air into the body, whereby moxa (51) contained in the moxa pot (32) is burned when the air pump is operated and the air is forcibly induced into the body, at which time, heat and smoke of

the moxa are moved downwardly toward the moxibustion part, and then, discharged to the outside through the smoke discharge hole (col. 3, line 65 to col. 4, line 10).

The air pump (18) is connected to the air suction hole and an air suction pipe, and a valve (24) is mounted on the air suction pipe (20), whereby an amount of the air supplied into the body can be controlled.

The seat (34) is located on the upper portion (12) of the body (10) to catch the moxa pot (32) therein, and the moxibustion and cupping part respectively are located on the lower portion and are formed integrally in such a way as to form the body and are divided by the inner wall (44). The body also includes an air discharge hole (28) formed on the outer wall thereof to communicate with the cupping part (16), and an opening and closing unit (30) is inserted into the air discharge hole, for maintaining pressure inside the cupping part by controlling an air flow between the inside and the outside of the cupping part (col. 3, lines 61-65).

Han however does not teach that air suction hole (22) is connected to the lid (14) of the body (10).

Applicant has not disclosed that having the air suction hole located on the lid instead of on the body of the moxibustion device solves any stated problem or is for any particular purpose. Moreover, it appears that the air hole placement of Han, or applicant's invention, would perform equally well with the hole for the air pump at any location above the base of the moxa pot.

Accordingly, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified Han such that the port for the air

Art Unit: 3735

pump is located on the lid because such a modification would have been considered a mere design consideration which fails to patentably distinguish over Han.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 4203438 to Shiu teaching a moxa burner and a mount for multiple burners.

US 5904664 to Kim teaching a moxacauteury device.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON B. COLQUITT whose telephone number is (571)270-1991. The examiner can normally be reached on Monday-Friday 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Marmor, II/  
Supervisory Patent Examiner  
Art Unit 3735

/A. B. C./  
Examiner, Art Unit 3735